

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2114.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	April 2, 2004
DATE OF REPORT:	April 30, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	June 17, 2004

COMPLAINT ISSUES:

Whether the Franklin Township Community School Corporation and RISE Special Services violated:

511 IAC 7-18-2 (a) by failing to provide a free appropriate public education to a student identified as disabled under Article 7, specifically by refusing to allow the student to attend school until a psychiatric evaluation of the student was obtained, at the expense of the parent.

511 IAC 7-27-4(a)(4) by failing to convene case conference committee (CCC) meeting when a change of placement is proposed or to be considered, specifically in connection with removing the student from school and requiring medical services for the purpose of diagnosis and evaluation.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written during the period from March 11, 2004, through March 17, 2004.

FINDINGS OF FACT:

1. The Student is 16 years old and is eligible for special education and related services due to a learning disability.
2. On March 10, 2004, the School informed the Parent that the Student was not permitted to return to school until the Student had been evaluated by a mental health professional and cleared to return to school.
3. The School's decision to remove the Student from school was based upon the student's statements to a school counselor and to staffpersons of a private counseling agency (the Private Agency) with which the School contracts for student services teams support, recovery support groups, and miscellaneous consultative services. When the School contacted the Parent by telephone, the School asked a Private Agency staffperson to speak to the Parent. The Private Agency recommended an immediate face-to-face evaluation by a qualified psychiatrist for an appropriate diagnosis and treatment based on that diagnosis. Although the School and Private Agency assert that more than one option was provided to the Parent, including a 24/7 phone number for a free assessment, the Parent recalls that a particular private hospital was recommended, despite the Parent's request for a facility closer to home. The free assessment, conducted by a masters level counselor, would not have met the School's requirement for readmission to school. The School has no documentation that more than one option was offered.
4. The School did not suspend the Student from school. The School did not seek a court order to remove the Student from school. The School did not request an expedited due process hearing to determine

an appropriate placement for the Student. The School did not convene the Student's case conference committee (CCC) to consider homebound services under 511 IAC 7-27-10 or medical services for the purpose of diagnosis and evaluation under 511 IAC 7-28-1(e). The School did not seek parental consent for a re-evaluation to determine whether the Student has an emotional disability. The School's position is that the principal is authorized under IC 20-8.1-5.1-5 to "take any action...reasonably necessary to carry out or prevent interference with an educational function or school purposes, and the School contends that a substantial interference with educational function and school purpose would have occurred if the Student had acted out the statements made to the school counselor and the Private Agency staffpersons.

5. On or about March 15, 2004, the Parent contacted the office of the special education planning district (the Cooperative). On March 16, 2004, the Assistant Director assisted the Parent in arranging an immediate evaluation by a psychiatrist. The Cooperative did not convene the Student's CCC to consider medical services for the purpose of diagnosis and evaluation under 511 IAC 7-28-1(e).
6. The Parent spent \$165 to obtain the psychiatric evaluation required by the School. The psychiatrist who evaluated the Student wrote a statement, "[The Student] is medically cleared to return to school." On March 17, 2004, the Parent delivered the Psychiatrist's statement to the School.
7. On March 18, 2004, the Student returned to school after an absence of five instructional days. Although the Student's absences were coded as medical and considered excused absences, the Student did not voluntarily miss school. The Student was permitted to turn in assignments that were assigned or due during the Student's absence. The Parent requested additional special education resource services to assist the Student in making up assignments. The School did not convene the Student's CCC to address the Parent's request for services. The School has provided no documentation of instructional services provided. However, it is undisputed that the special education teacher(s) provided assistance when requested by the Student.
8. On April 22, 2004, the Student's CCC met for a regularly-scheduled annual CCC meeting.

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, and #6 indicate that the School denied the Student a free, appropriate public education by refusing to allow the student to attend school until a psychiatric evaluation of the student was obtained, at the expense of the parent. Therefore, a violation of 511 IAC 7-18-2 (a) occurred.
2. Findings of Fact #4, #5, #7, and #8 indicate that during the period from March 10, 2004, to April 22, 2004, the Student's case conference committee did not meet to consider a change of placement or the related service of medical services for the purpose of diagnosis and evaluation under 511 IAC 7-28-1(e). Therefore, a violation of 511 IAC 7-27-4(a)(4) occurred.
3. Findings of Fact #7 indicates that the Student missed five days of instructional time. Therefore, a violation of 511 IAC 7-27-7(a) occurred.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

By June 15, 2004, Franklin Township Community School Corporation and RISE Special Services shall:

- a. Reimburse the Parent for the cost of the psychiatric evaluation required by the School.
- b. Convene the Student's CCC to consider compensatory services.
- c. Review and revise procedures for referrals for mental health evaluations.

Documentation of compliance shall consist of a payment voucher (or equivalent documentation of payment to the Parent), the Case Conference Report, and a (revised) procedures document.